IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1510 of 2005

VVF Limited .. Petitioner

versus

Sarva Shramik Sangha & Anr. .. Respondents

...

Mr.C.V. Pavaskar i/b P.C.Pavaskar for the petitioner.

CORAM : D.G. KARNIK,J.

DATED : 22nd June 2005.

P.C.:

1. Heard learned counsel for the petitioner and the respondent no.1.

2. The respondent no.1 who was found guilty of a misconduct in a domestic enquiry was dismissed from service by the petitioner. On a reference u/s.10 of the Industrial Disputes Act (for short 'the Act'), it was held by the Labour Court that the findings

recorded in the domestic enquiry were perverse. The Labour Court therefore ordered reinstatement of the respondent no.1. That order was challenged by the petitioner by filing a Writ Petition bearing Writ Petition no.964 of 1998 in this Court. In the Writ Petition, it was contended that an application was made before the Labour Court stating that if the Labour Court found that the enquiry conducted was defective then the petitioner may be permitted to adduce evidence so as to justify the order of discharge. It was further contended that though such an application was made, the Labour Court did not allow the petitioner to adduce the evidence when it came to the conclusion that the findings of the enquiry officer were perverse. In view of this submission, this Court remanded the matter back to the Labour Court with the direction to permit the petitioner to adduce evidence before the labour court to justify the order of discharge.

3. In pursuance of the order of remand the parties appeared before the Labour Court and an opportunity was given to the petitioner to adduce the evidence to justify the order of discharge. After recording of the additional evidence, the Labour

Court again came to the conclusion that the order of discharge was not proper and valid and therefore, ordered his reinstatement. That order is impugned in this Writ Petition.

4. Though the petitioner was allowed by an order of remand to adduce the evidence to justify the order of dismissal, the petitioner did not adduce all the relevant evidence. In the domestic enquiry, the petitioner had examined six witnesses. None of the said six witnesses were examined before the Labour Court. Out of the six witnesses examined before the Enquiry Officer in the domestic enquiry, according to the respondent no.1, three are still in service. According to the learned counsel for the petitioner, only two witnesses are still in service. Assuming that to be true, none of the said two witnesses was examined.

5. I have perused the order passed by the Labour Court after remand. No perversity is shown in the finding of facts recorded by the labour court. No interference is called for in exercise of the writ jurisdiction. Hence, Writ Petition is rejected summarily.

D.G. KARNIK, J